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COUNTY OF LOS ANGELES

# SHERIFF'S DEPARTMENT

DATE: December 4, 1998

OFFICE CORRESPONDENCE

FILE:

FROM: JOHN A. HAMMARGREN, COMMANDER
PROFESSIONAL STANDARDS
AND TRAINING DIVISION

TO: ARTHUR E. HERRERA, CAPTAIN
CENTURY STATION

SUBJECT: **EXECUTIVE FORCE REVIEW COMMITTEE FINDINGS AND RECOMMENDATIONS USE OF DEADLY FORCE, MARCH 21, 1997, IAB INVESTIGATION #1088230**

The purpose of this memo is to notify you of the review committee's findings and recommendations concerning the use of deadly force incident which occurred on March 21, 1997.

The committee met on December 3, 1998 and consisted of myself and Commanders Michael I. Quinn (Court Services Division) and Elizabeth A. Dickinson (Field Operations Region III). The committee deemed as unfounded the allegations that Deputy [redacted] #[redacted] violated the following sections of the Manual of Policy and Procedures: 3-01/025.30-Use of Firearm and Deadly Force and/or 3-01/025.10-Unreasonable Force and 3-01/050.10-Performance to Standards.

The Unit Commander will conduct station level training on tactical options involving pedestrian stops.

Accompanying this memo is the original PSTD Response Team package, which contains the IAB and Training Bureau reports. Please evaluate the included material and complete and sign the enclosed form documenting your recommendations and actions and return the PSTD Response Team package to me through division chief within 30 days.

JAH:BNM:bnm

## INVESTIGATIVE SUMMARY

On March 21, 1997, Sergeants **Mike Pippin** and **Rickey Jennings** along with **Lieutenant Roberta Abner**, all from the Internal Affairs Bureau responded to the City of Lynwood to investigate a Deputy Involved Shooting incident resulting in the death of the suspect. The IAB Investigators met with **Sergeant Mark Winters, Deputy Gary Miller and Lieutenant Donald Bear**, all assigned to the Homicide Bureau, Detective Division.

Subsequent to this incident, Chief Rachel M. Burgess, then assigned to the Professional Standards and Training Division, instructed the IAB Investigators to conduct an administrative investigation regarding the allegation of unnecessary deadly force by the two deputies involved in this incident, [redacted] #[redacted] and **Aaron Maready, (currently employed as a Police Officer,** [redacted]. Both individuals were assigned to the Century Station COPS Team at the time of the incident.

The following is a summary of this shooting incident based on information developed by Homicide Bureau and during the IAB investigation.

## SYNOPSIS OF INCIDENT

The deputies were parked in a McDonald's parking lot, located on the S/E corner of Imperial Highway and Long Beach Boulevard, assisting a disabled motorist. Both deputies observed the lone suspect running from a business establishment inside of a strip mall, located at the N/E corner of Imperial Highway and Long Beach Boulevard. Both deputies observed that the suspect was holding an object underneath his jacket as he ran away from the businesses. Both deputies thought the suspect may have perhaps just conducted an armed robbery, and they immediately drove across the street and momentarily detained him for an investigation. Based on the suspect's actions during this brief detention, they felt he was armed with a weapon. A Deputy Involved Shooting incident occurred with a total of 32 rounds of 9mm ammunition with each deputy firing 16 rounds each. The suspect was transported to Saint Francis Hospital and pronounced dead as a result of his injuries. No weapon was recovered from the suspect or the immediate area. It was determined the suspect had just stolen a clear plastic donation coin box from a business located within the strip mall. The suspect dropped the coin box to the ground after being shot.

## BACKGROUND OF SUSPECT

Mr. **Gregory Franklin Brandon, MB/34, (05-12-62,** [redacted] has an extensive criminal record [redacted] CII records indicated [redacted] Toxicology reports from the Coroner's autopsy indicate that Suspect Brandon was under the influence of rock cocaine at the time of his death.

## SUMMARY OF INCIDENT

On March 21, 1997, Deputies [redacted] (driver) and Maready (book man) were assigned to a uniformed detail while working the COPS Team. While assisting a disabled motorist, Ms. [redacted] FH/21, across the street from the location, they observed Suspect Brandon, running from an open business, holding an object underneath his jacket. Based on the suspect's actions, the deputies believed an armed robbery had just occurred and they decided to drive across the street and attempt to detain the suspect.

The deputies quickly drove across the street and parked adjacent to the curb, blocking W/B Imperial Highway traffic. While driving across the street, both deputies began communicating to each other regarding their observations of the suspect's actions. Both deputies began to tell each other, "watch his hands." Deputy Maready exited his vehicle via the passenger door with his weapon pointed at the suspect, telling him repeatedly to raise his hands over his head. Deputy Maready stated he observed a handgun in the suspect's waistband. He said when the suspect refused to raise both hands over his head, and he then noticed the suspect reaching for his waistband, he yelled to his partner, "Gun!" and began shooting at the suspect.

Deputy [redacted] said as he stopped and exited his vehicle, he ran towards the rear of the vehicle and momentarily lost sight of the suspect due to the flashing amber lights from the radio car's light bar and also due to his physical position behind the car. At that time, Deputy [redacted] heard Deputy Maready yell, "Gun!" and then heard several rounds from a weapon being fired. He said he did not know at that very moment if his partner was initiating the gunfire or if the suspect was shooting at his partner. Deputy [redacted] said as soon as he reached the passenger side of the radio car and away from a crossfire position from his partner, he saw the suspect's hands at his waistband and noticed an object that he thought was gun. Deputy [redacted] said he began shooting at the suspect. Both deputies emptied their service weapons after firing a total of 16 rounds each. (See [redacted] and Maready interview statements to Homicide and IAB).

The suspect dropped a plastic coin box with coins to the sidewalk and began running a short distance. The suspect staggered into the street and collapsed from his gunshot wounds. He was taken to Saint Francis Hospital (located one block away) by paramedics where he was pronounced dead. An autopsy was conducted and determined the suspect was hit by a total of 8 separate 9mm rounds fired by both deputies. Two of the rounds were deemed to be fatal. Ballistic reports indicated the fatal wounds were fired by Deputy Maready.

See witness interviews in attached Homicide Bureau report.

LOS ANGELES COUNTY DISTRICT ATTORNEY'S OFFICE
BUREAU OF SPECIAL OPERATIONS • SPECIAL INVESTIGATIONS DIVISION

GIL GARCETTI • District Attorney
SANDRA L. BUTTITTA • Chief Deputy District Attorney
ROBERT P. HEFLIN • Assistant District Attorney

ALLEN D. FIELD • Director

September 11, 1997

Captain Don Mauro
Los Angeles County Sheriff's Department
Homicide Bureau
4700 Ramona Boulevard
Monterey Park, California 91754-2169

Dear Captain Mauro:

Re: S.I.D. File #: 100-8242/97-0265
L.A.S.D. File #: 097-05930-2112-145

The Special Investigations Division of the Los Angeles County District Attorney's Office has completed its review of the March 21, 1997, fatal shooting of Gregory Franklin Brandon by Los Angeles County Deputy Sheriffs Aaron Maready and [redacted] For the reasons set forth below, we conclude that both deputies acted lawfully in self-defense and in defense of each other.

The following analysis is based solely on reports prepared by the Los Angeles County Sheriff's Department, Homicide Bureau, received by this office on June 18, 1997, an oral presentation by Sergeants Mark Winters and Gary Miller, and an examination of 438 photographs that relate to the shooting[1]. No independent investigation has been conducted by members of this office.

## FACTUAL ANALYSIS

On Friday evening, March 21, 1997, at approximately 9:45 p.m., Deputies Aaron Maready and [redacted] were stopped in a parking lot on the southeast corner of Long Beach Boulevard and Imperial Highway, assisting a stranded motorist. Directly north of their location is a strip mall. While assisting the motorist, they saw Gregory Brandon running through the strip mall in a southerly direction toward them. Brandon was bent forward at the waist, and was holding both hands at the front of his body. While running, he was looking back over his shoulders. Due to the hour and the manner in which Brandon was running and holding his

1. These photographs will be returned to the Sheriff's Department.

Criminal Courts Building
210 West Temple Street
Los Angeles, CA 90012-3275
WEBSITE: http://www.co.la.ca.us/da

hands in front of his body, the two deputies suspected that Brandon had just committed a robbery. They decided to stop him in order to conduct an investigation.

[redacted] the driver of their black and white patrol car, drove from the parking lot and pulled onto Imperial Highway, stopping in a northwesterly direction. Brandon, who had been running in a southerly direction, turned and traveled in an easterly direction on the north side of Imperial Highway. According to [redacted] Brandon slowed to a walk as he got to Imperial Highway.

As the two deputies drove toward Brandon, they cautioned each other that, because of the manner which he was holding his hands in front of his body, he may have a gun. When [redacted] pulled their car to a stop, Maready stepped from the vehicle, and at gun point, ordered Brandon "Raise your hands. Let me see both your hands." According to Maready, Brandon raised his right hand, but kept his left hand in front of his waistband. Maready again ordered Brandon to raise his hands. Rather than raise his left hand, Brandon dropped his right arm to "about shoulder height", and moved his left hand "upward exposing his left waistband." Maready told investigators that at that point he was able to see the butt of a black handgun in Brandon's waistband. Maready said that he yelled to [redacted] that Brandon had a gun. According to Maready, Brandon "made a motion towards the gun with his right hand", and Maready fired a volley of rounds at him.

Maready said that Brandon then turned and again started to walk eastbound on Imperial Highway. He turned in a counterclockwise direction while "still jerking at his waistband area". After running a short distance, Brandon again turned toward Maready, "still clutching at the left front area of his waistband". Maready fired additional rounds at him. Brandon then raised his hands above his head and fell to the street. Paramedics were called, and they transported Brandon to Saint Francis Hospital where Doctor Stafford pronounced him dead at 10:46 p.m.

Deputy [redacted] told investigators that he also was concerned that Brandon may have been involved in a robbery, and that because of the manner in which he was running, he may have been armed with a gun. As he stopped their patrol car, he heard Maready say, "Let me see your hands". He also heard Maready say "stop" or "don't". He heard Maready yell "gun" and heard gunfire. According to [redacted] Brandon still had his hands at his waistband, and that they were atop a "dark object". At that point, [redacted] fired four or five rounds at Brandon.

Brandon turned and began to walk eastbound on the sidewalk. When he turned again toward the deputies, [redacted] feared that he had gotten control of his gun and was about to shoot at them. At that point he fired a second volley of about five

rounds. Again, Brandon moved eastbound on the sidewalk. When he turned toward the deputies again, [redacted] again fired his weapon. [redacted] fired his fourth burst at Brandon when he again "looked over his shoulder, and...again turned in his direction".

Both deputies emptied the magazines to their weapons and reloaded. Investigators recovered 32 expended cartridge cases. Brandon was unarmed. Near his fallen body investigators found a small plastic charitable money container. Scattered on the sidewalk was $8.98. Attached to the plastic container was a picture of three needy children. Investigators determined that Brandon had just stolen the money container from a small bakery at 11124 Long Beach Boulevard. He was running from the bakery when confronted by Maready and [redacted]

Investigators interviewed [redacted] and [redacted] They, along with their [redacted] and his friend, were walking on the north side of Imperial Highway in a westerly direction when they walked past a man who was walking rapidly in an easterly direction. According to [redacted] the man was holding the left zipper portion of his jacket with his left hand, and had his right hand under the left side of the jacket. Both he and his [redacted] thought the man had either a gun or a knife secreted under his jacket. [redacted] age 11, saw the outline of a square shaped object under Brandon's jacket, but he could not see the actual object. Shortly after passing the man, they all heard several gunshots and saw two deputies pointing guns at a man lying in the street[2].

On March 23, 1997, Lisa Scheinin, M.D., Deputy Medical Examiner, performed an autopsy on the body of Franklin Brandon. She ascribed the cause of death to multiple gunshot wounds. Brandon was struck by eight rounds. Four rounds were ballistically determined to have been fired from [redacted] handgun. Three rounds, including the two fatal rounds, were determined to have been fired by Maready. A toxicological analysis was conducted on the post mortem blood of Brandon. His blood-alcohol level was determined to be .02%. In addition, his blood was found to contain .08% micrograms per milliliter of cocaine, and .40% micrograms per milliliter of benzoylecgonine, a cocaine metabolite.

Brandon has an extensive criminal record. [redacted] After his release from custody, he came to California. [redacted] His grant of

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2. The [redacted] did not get close enough to the man in the street to identify him as the same person that they had passed just moments earlier. According to Sergeant Winters, however, the time sequence and the fact that no other persons were on the street at the time of the shooting lead to the conclusion that it was in fact Brandon who they feared had a weapon as they walked past him.

[redacted] After his release, [redacted] At the time of his death, he was on felony probation for possession of a narcotic controlled substance.[3]

CONCLUSION

California law permits the use of deadly force in self-defense or in the defense of another if it reasonably appears to the person claiming the right of self-defense or the defense of another that he actually and reasonably believed that he was in imminent danger of great bodily injury or death. People v. Williams (1977) 75 Cal. App. 3d 731.

In protecting himself or another, a person may use all force which he believes reasonably necessary and which would appear to a reasonable person, in the same or similar circumstances, to be necessary to prevent the injury which appears to be imminent. CALJIC 5.30. 5.32.

Where the peril is swift and imminent and the necessity for action immediate, the law does not weigh into nice scales the conduct of the assailed and say he shall not be justified in killing because he might have resorted to other means to secure his safety. People v. Collins (1961) 189 Cal. App. 2d 575.

Actual danger is not necessary to justify the use of deadly force in self- defense. If one is confronted by the appearance of danger which one believes, and a reasonable person in the same position would believe, would result in death or great bodily injury, one may act upon those circumstances. The right of self-defense is the same whether the danger is real or merely apparent. People v. Toledo (1948) 85 Cal. App. 2d 577.

When Maready and [redacted] decided to detain Gregory Brandon, they were aware of several facts. It was nighttime, and he was running from the area of several businesses. More importantly, as he ran they noticed that he held his hands at his waistband. When he stepped from the patrol vehicle, Maready repeatedly ordered Brandon to raise both of his hands. According to Maready, Brandon raised only his right hand, and then suddenly lowered it. While this was occurring, he still maintained his left hand near his waistband. When Brandon suddenly raised his left hand slightly, Maready saw a dark object which he thought was a handgun. In fact, it was the charitable collection box that Brandon had stolen moments earlier.

3. See Los Angeles County Superior Court case numbers TA 015299, TA 029060, and TA 046191.

At that crucial point in time, Maready and [redacted] had to make a decision. Believing that Brandon was arming himself rather than follow directions to raise his hands, Maready and then [redacted] fired several rounds at him. When he continued to tug at his waistband, they fired again.

The issue presented is whether Maready and [redacted] were reasonable in believing that Brandon posed a danger to them of death or great bodily injury. It is indisputable that it only takes a moment for a person to draw a handgun and fire several shots. Given all of the above, we cannot say beyond a reasonable doubt that either Maready or [redacted] were unreasonable in fearing for their well being and the well being of each other.

We therefore decline to file criminal charges against either Deputy Maready or Deputy [redacted] We are closing our file and will take no further action in this matter.

Very truly yours,

GIL GARCETTI
District Attorney

ROBERT P. HEFLIN
Assistant District Attorney

By

JAMES L. COSPER
Deputy District Attorney
(213) 974-7435

c: Deputy Aaron Maready #[redacted]
Deputy [redacted] #[redacted]